

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

CAVEMAN FOODS LLC,  
a California limited liability company  
as assignee of Food Services of  
America Inc.,

**Plaintiff.**

C19-1667 TSZ

CAVE MAN KITCHENS INC, a  
Washington corporation, et al.,

### Defendants.

## MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, United States District Judge:

(1) Plaintiff Caveman Foods LLC’s Motion to Remand, docket no. 10, is GRANTED. Defendant’s removal based on diversity violated the “forum defendant rule” which precludes removal where the defendant is a citizen of the forum state. See 28 U.S.C. § 1441(b)(2); *Conner v. Bart Guerrero Trucking*, 2019 WL 3025205 (W.D. Wash. July 11, 2019). Likewise, plaintiff’s claim of federal jurisdiction based on a theory that the defendant must bring a compulsory counterclaim in a related case (C18-1274-TSZ) pending in this Court is “premised on a misunderstanding concerning Rule 13”. See *Lexington Ins. Co. v. Langei*, 2014 WL 3563380 at \*3. (Rule 13 does not itself prevent the filing of a separate lawsuit instead of a compulsory counterclaim). There has been no final judgment in the related action and res judicata does not apply. Simply put, there is no basis for jurisdiction in this Court.

(2) Plaintiff's request for attorney's fees and costs, is GRANTED in part and defendant is ordered to reimburse plaintiff within 10 days of this minute order for its fees and costs in association with the motion to remand in the total amount of \$2,500.

(3) The Clerk is DIRECTED to remand this matter to the King County Superior Court, effective fourteen (14) days after the date of this Minute Order, and to send a copy of this Minute Order to all counsel of record.

3 Dated this 8th day of January, 2020.

William M. McCool  
Clerk

s/Karen Dews  
Deputy Clerk